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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,743	12/14/2001	Takashi Ootawara	15163	9822

7590 01/15/2004
Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, NY 11530

EXAMINER

FLANAGAN, BEVERLY MEINDL

ART UNIT PAPER NUMBER

3739

DATE MAILED: 01/15/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 10/017,743	Applicant(s) OOTAWARA ET AL. <i>en</i>
Examiner Beverly M Flanagan	Art Unit 3739

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-135 is/are pending in the application.
4a) Of the above claim(s) 125-135 is/are withdrawn from consideration.
- 5) Claim(s) 99-113 is/are allowed.
- 6) Claim(s) 1-3, 31-34, 36, 37, 43-47, 56-58, 91-98 and 114 is/are rejected.
- 7) Claim(s) 4-30, 34, 35, 38-42, 48-55, 59-90 and 115-124 is/are objected to.
- 8) Claim(s) 1-135 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Beverly M Flanagan
BEVERLY M. FLANAGAN
PRIMARY EXAMINER

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) Interview Summary (PTO-413) Paper No(s). _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other:

DETAILED ACTION

Election/Restrictions

Applicant's election of the invention of Group I (claims 1-124) in Paper No. 6 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 125-135 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6.

Priority

Acknowledgment is made of applicant's claim for foreign priority based on 3 applications filed in Japan (Japan 2000-115355 on 4/17/2000; Japan 2000-128262 on 4/27/00 and Japan 2000-145530 on 5/17/2000). It is noted, however, that applicant has not filed a certified copy of the Japanese application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 31-34, 36, 37, 43-47, 56-58, 91-98 and 114 are rejected under 35 U.S.C. 102(b) as being anticipated by Shimizu et al. (U.S. Patent No. 4,841,949).

In regard to claims 1-3, 31, 32, 36, 37, 43-47, 56-58, 91-98 and 114, Shimizu et al. teach an endoscope 2 comprised of an operating section 4, a flexible portion 10, a bending portion 12 and a distal end portion 14 (see Figure 1). A storage room 28 communicated with a medical instrument channel 36 and a raising block 26 is located in storage room 28 (see Figure 2). The distal end portion of raising block 26 has a mounting hole 49 that is connected to the distal end of an operation wire 50 by means of fixture 51 (see Figure 2). By operating a raising knob 24 on operating section 4, operation wire 50 is moved accordingly to raise raising block 26 and thereby raise medical instrument 42 (see Figure 2 and col. 4, lines 28-48). **With further regard to claim 3**, Shimizu et al. teach a stopper 80 that limits the maximum rising angle for raising block 26 (see Figure 6). **In regard to claims 33 and 34**, Figure 1 of Shimizu et al. shows that the raising knob 24 is provided at a position that is substantially orthogonal to the rotating shaft of raising block 26.

Allowable Subject Matter

Claims 4-30, 34, 35, 38-42, 48-55, 59-90 and 115-124 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 99-113 are allowed.

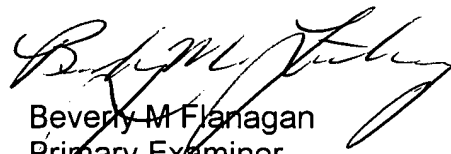
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant should note the following prior art references disclosing a raising means with a guide wire: Ouchi, U.S. Patent No. 4,407,263; Komi, U.S. Patent No. 5,343,853; Katsurada et al., U.S. Patent No. 5,868,663; Ouchi et al., U.S. Patent No. 6,582,357; Matsuno, U.S. Patent No. 6,605,033 and Yamaya et al., U.S. Patent Application Publication No. 2003/0040657.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beverly M Flanagan whose telephone number is (703) 305-7202. The examiner can normally be reached on Mondays, Tuesdays and Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda CM Dvorak can be reached on (703) 308-0994. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.


Beverly M Flanagan
Primary Examiner
Art Unit 3739